

BEFORE THE IDAHO BOARD OF TAX APPEALS

JAMES AND JANE BRAUSEN,)	
)	
Appellants,)	APPEAL NO. 15-A-1098
)	
v.)	FINAL DECISION
)	AND ORDER
BONNER COUNTY,)	
)	
Respondent.)	
)	
)	
)	

RESIDENTIAL PROPERTY APPEAL

This appeal is taken from a decision of the Bonner County Board of Equalization modifying the protest of valuation for taxing purposes of property described by Parcel No. RP0540400044A0A. The appeal concerns the 2015 tax year.

This matter came on for hearing October 9, 2015 in Sandpoint, Idaho before Hearing Officer Cindy Pollock. Appellants James and Jane Brausen were self-represented. Jerry Clemons represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

The issue on appeal concerns the market value of an improved residential property.

The decision of the Bonner County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$655,325, and the total improvements' value is \$100,400, totaling \$755,725. Appellants contend the correct land value is \$411,000, with no change to the improvements' value, for a total assessed value of \$511,400.

The subject property is a 1-acre improved waterfront parcel. The lot contains 150 front feet on the east side of Priest Lake in Coolin, Idaho. Other improvements include a

dock, and some outbuildings. Only the assigned land value was challenged at hearing.

Appellants explained subject is the only lot in the subdivision with staggered setback requirements. The setback requirement on the southeast portion is 50 feet, which increases to 100 feet on the northern portion of the lot. Therefore, the site can only support a residence with a small footprint. Appellants compared this to a typical lot in the subdivision which enjoys a much larger building envelope, the majority of other lots in subject's location have less than 50 foot setbacks. Further, Appellants explained subject's beach quality is inferior, the waterfront has reduced lake views, and it contains an unlevel site pad. Photographs depicting subject's land and improvement features were provided.

Appellants offered information concerning lakefront sales which occurred during 2014. Many of the lakefront lots were owned by the State of Idaho and were leased to lessees who were permitted to build residential and other improvements on the lots. In August 2014, the State held an auction involving 60 of these leased lots. An independent fee appraisal of the lots was conducted. Part of the appraisal provided in record included a topography rating for each of the auction lots. This was used by the appraiser to determine the value of the lots. The appraisal report's value conclusions were used to set the minimum bid price at the auction. Sale prices ranged from approximately \$526 to \$4,230 per front foot. All except one (1) of the 60 lots offered at the auction were purchased, with 57 of the sale lots being purchased by the lessee. In each instance the minimum bid price was the same as the final sale price.

Appellants suggested because some of the auction properties had similar qualities

as subject and were appraised by professional fee appraisers prior to being sold, they should be used as comparables to support subject's land value.

Appellants referenced three (3) sales considered to be most similar to subject. The first two (2) sales were located in subject's immediate area. The first sale contained 125 front feet and sold for \$450,000 or \$3,600 per front foot. Appellants deducted \$25,000 from this sale to account for the existing road and the utilities already in place to arrive at a \$3,400 per front foot value. The second sale contained 140 front feet and sold for \$465,000, or \$3,321 per front foot. Lastly, the third sale contained 170 front feet and sold at the auction for \$410,000 or \$2,412 per front foot. Using the three (3) sales, Appellants calculated an average front foot rate of \$3,044. Overall, Appellants contended the three (3) sales had similar overall characteristics to compare with subject.

Appellants also provided four (4) listings. These lots were listed some time ago and did not sell. Asking prices were subsequently lowered in 2014. The properties contained between 124 and 160 lakefront feet. The 2014 listing prices were between \$475,000 and \$560,000, or an average of \$3,421 per front foot. Appellants assumed a 10% reduction from list price due to the lengthy listing times and came up with an average of \$3,079 per front foot. In conclusion, Appellants determined the market price for lots in subject's south shore area was \$3,044 per front foot. Appellants then applied a 10% reduction for topography to arrive at a value of \$411,000 or \$2,740 per front foot for subject's land.

Respondent contested Appellants' use of the auction sales as the basis for reducing subject's land value. Respondent argued the auction prices were below market value.

According to Respondent, the fee appraisal used some dated sales, as well as, waterfront sales from different lakes in arriving at the appraised values of the auctioned Priest Lake lots. Respondent also remarked only two (2) of the auction lots received more than one (1) bid, which was reasoned to demonstrate there was little competition among buyers. Respondent also characterized the State of Idaho as being under compulsion to sell and the buyers as highly motivated and anxious to purchase the land sitting under their residences. Respondent further contended the fee appraisal allocated too little value to the land component and too much value to the improvements, resulting in per-front-foot rates below market value. As a result, Respondent did not consider any of the auction sales in determining subject's assessed value.

Respondent provided information concerning nine (9) waterfront sales of Priest Lake parcels. The sales occurred during late 2013 and throughout 2014. The sale properties were situated all over the lake, with the majority located on the more developed west side of Priest Lake. Two (2) of the sales were vacant parcels, one (1) of which was located near the outlet. These vacant lots, both with mostly flat topography and building sites near the water's edge, consisted of 110 and 50 waterfront feet. Sale prices were \$538,000 and \$260,000, or \$4,891 and \$5,200 per front foot, respectively. The remaining sales involved improved parcels, one (1) of which was noted to have steep topography similar to subject. Sale prices ranged from \$445,000 to \$1,600,000. After extracting assessed values of the associated improvements, Respondent calculated land value residuals between \$377,650 and \$1,338,240, or from \$5,106 to \$6,965 per front foot. Based on these sales,

Respondent determined to use a value rate of \$4,887 per front foot, which was applied to the first 100 front feet of each parcel on Priest Lake.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2015 in this case. Market value is defined in Idaho Code § 63-201, as,

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Market value is estimated according to recognized appraisal methods and techniques. There are three (3) approaches to value, the sales comparison approach, the cost approach, and the income approach.

Appellants suggested the sales included in Respondent's analysis were not similar to subject's topography and location. Appellants contended this was not a true comparison when looking at subject's location, and the steep lot with an unlevel building footprint. Respondent maintained the sales data did not show any notable price differences for

location, physical characteristics or topography.

Appellants requested the sales in subject's immediate area be used in determining subject's land value. Appellants pointed to three (3) sales and four (4) listings considered to be similar to subject's topography. Appellants provided detailed information regarding subject's topography and setbacks.

Respondent provided nine (9) lakefront sales which were located on both sides of Priest Lake. Two (2) of the sales were vacant parcels, with the remaining being improved properties. Respondent extracted the values of the improvements to determine the indicated front foot land value. A rate of \$4,887 was then assigned to all front feet on Priest Lake with the exception of some outlet properties. Without being able to see what improvements were extracted in each individual analysis, the Board could not conclude the land values are accurate. Respondent also pointed to one (1) sale of a relatively steep parcel which sold near the top of the price range and concluded the market showed no price differential for topography or other lot characteristics. The Board does not agree that because one (1) sale of an improved property located on a steep slope sold at a price similar to flat lots that buyers are willing to pay the same price regardless of topography. Respondent's sales analysis did not adequately consider subject's physical characteristics. Subject clearly has setback limitations which should be considered.

According to Idaho Code § 63-511, Appellants bear the burden of establishing error in subject's valuation by a preponderance of the evidence. While Appellant did bear the burden of establishing error, Appellant fell short in providing enough market evidence for

the requested value. However we do find sufficient evidence which supports some reduction. In all, we found consideration should be given for subject's setbacks, terrain, and general physical characteristics. Based on the above, the decision of the Bonner County Board of Equalization is modified, thereby lowering subject's total land value to \$435,000.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED setting the total land value to \$435,000, with no change to the improvements' value, for a total assessed value at \$535,400.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellants.

Idaho Code § 63-3813 provides under certain circumstances that the above ordered value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 2nd day of January, 2016.